

## Sponsor Salary Restrictions: Department of Defense

### Purpose

This document describes compensation limits imposed by the Department of Defense (DOD) on senior personnel working under a DOD contract award(s).

### Background

The Department of Defense sets compensation limits in compliance with the National Defense Appropriation Act (NDAA). NDAA Section 808 for Fiscal Year 1998 (Public Law 105-85) requires the Office of Federal Procurement Policy (OFPP) to review surveys of executive compensation and determine a benchmark amount of allowable compensation for senior contractor personnel. The determined compensation amount remains in effect for subsequent fiscal years until revised by OFPP. Implementation of NDAA Section 808 is in the Code of Federal Regulations (48 CFR Part 31), Section 31.205-6, Compensation for personal services.

In Section 803 of the recently-enacted National Defense Authorization Act for FY 2012 (H.R. 1540; P.L. 112-81, December 31, 2011 (NDAA), the applicability of the existing cap was extended to any contractor employee performing under a "covered contract" under 10 U.S.C 2324 (which are contracts awarded by the Department of Defense, the Coast Guard, and NASA). This new extension applies to "costs of compensation incurred after January 1, 2012."

### Salary Limitation

The current limit is \$763,029.

### Applicability

The salary limitation applies to:

- contract costs incurred after January 1, 2011.
- senior contractor personnel

### Definitions

#### Senior executive

Effective January 2, 1999, senior contractor personnel are the five most highly compensated employees in management positions at each home office and each segment of the contractor, whether or not the home office or segment reports directly to the contractor's headquarters.

Prior to January 2, 1999, "senior executive" means

- The Chief Executive Officer (CEO) or any individual acting in a similar capacity at the contractor's headquarters;

- The four most highly compensated employees in management positions at the contractor's headquarters, other than the CEO; and
- If the contractor has intermediate home offices or segments that report directly to the contractor's headquarters, the five most highly compensated employees in management positions at each such intermediate home office or segment.

Definitions of other terms can be found on the Federal Acquisition Regulation Web site at [Section 31.205-6](#).

## References

### National Defense Authorization Act

- Fiscal Year 2012 (Public Law 112-81) Section 803
- Fiscal Year 1999 (Public Law 105-261) Section 804
- Fiscal Year 1998 (Public Law 105-85) Section 808

### Code of Federal Regulations (48 CFR Part 31), Section 31.205-6, Compensation for personal services.

- "Senior executive" — 31.205-6(p)(2)(ii)(A)-(B)

### Federal Register

- 77 FR 24226, April 23, 2012
- 64 FR 10547, March 4, 1999
- 63 FR 70287, December 18, 1998
- 63 FR 9066, February 23, 1998

### Federal Acquisition Circular

- FAC 97-11, effective March 4, 1999
- FAC 97-10, effective December 18, 1998

### Change History

- **September 26, 2012** - updated Salary Limitation to reflect FY 2011 changes.

### Feedback

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